



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TRG

Docket No: 1752-99

27 June 2000

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 w/attachments
(2) Case Summary
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Navy filed enclosure (1) with this Board requesting changes in the reason for discharge and reenlistment code.

2. The Board, consisting of Mr. Zsalman, Mr. Bartlett and Ms. Gilbert, reviewed Petitioner's allegations of error and injustice on 20 June 2000 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Although it appears that enclosure (1) was not filed in a timely manner, it is in the interest of justice to waive the statute of limitations and review the application on its merits.

c. Petitioner reenlisted in the Navy on 6 February 1991. At that time, he had completed almost four years of active service on a prior enlistment. The record shows that on 8 January 1994 he reported aboard the USS COMSTOCK (LSD 45).

d. The medical record shows that on 23 November 1994 he was referred for a psychiatric evaluation after he began having difficulties aboard ship. The record states that he punched a wall, threw a wrench in his work space and was found in a fetal position. After a psychiatric evaluation, which included psychiatric testing, he was found fit for duty and directed to report to his ship. On 16 December 1994 he was admitted to the Naval Medical Center, San Diego after he stated that if he was

returned to the ship, he would take it out on the first person who gave him a hard time. He stated "before I harm myself, I might as well harm someone else ... like my chief and people I work with." He was diagnosed with a personality disorder, not otherwise specified, with dependent, narcissistic and avoidant features. Since he was judged to represent a continuing risk to self or others if retained in the Navy, his expeditious administrative separation was recommended. The psychiatric evaluation was prepared by a psychology intern but it was also signed by a staff psychiatrist.

e. Subsequently, Petitioner was notified of separation processing based on the diagnosed personality disorder. In connection with this processing, he elected to waive his right to have his case heard by an administrative discharge board. The commanding officer directed his separation, stating that his performance was average at best and was consistently declining. It was noted that he needed constant supervision, which was unsatisfactory in a senior third class petty officer. He was honorably discharged on 29 December 1994. At that time, he was not recommended for reenlistment and was assigned an RE-4 reenlistment code.

f. Petitioner contends in his application that he does not have a personality disorder, but was only having an adjustment problem. In support of this contention, he has submitted an evaluation from a psychologist who concludes, after psychiatric testing, that Petitioner has an adjustment disorder with mixed anxiety and depressed mood but does not have a personality disorder. The psychologist points out that there is no documentation to support the personality disorder requirement that the adjustment problems be of long standing duration. He essentially agrees with the first psychiatric evaluation done by the Navy which found Petitioner to be fit for duty, and points out that the second evaluation was done by an intern.

g. In order to resolve the conflicting psychiatric evaluations, the Board obtained an advisory opinion from a Navy psychiatrist. In that opinion the psychiatrist states, in part, as follows:

... it does appear that the evaluation that lead to his separation was in fact made by a psychology intern Although an MD did sign off on the board, there is no documentation to indicate that an independent evaluation was done by a board certified provider, MD or PhD. Presumably this was done on the inpatient unit, but the first allegation does seem to have merit.

The second issue is that there is really is not adequate documentation that (Petitioner's) behavior was of "long standing duration". Based on this record I could not make an Axis II diagnosis retrospectively.

In conclusion and with the benefit of retrospection, I believe that the first mental health provider's assessment that this was a situational problem was probably accurate and compounded by general immaturity. I would therefore support (Petitioner's) request to have (the reason for) his discharge recharacterized. However, most people when stressed, for whatever reason, do not make threats such as he did. I think this shows a basic character flaw that potentially could surface again in similar circumstances. I therefore would not support his request to change his reenlistment code.

h. Petitioner states in his rebuttal to the advisory opinion that he did not make any personal threats against anyone onboard his ship but was only seeking help for his situation. He points out that Navy doctors never observed the situation onboard the ship and it was wrong to conclude without facts, evidence, or charges that he ever threatened anyone. He states that he in his sophomore year in college and he has a "completely unblemished record as a mature, responsible and law-abiding citizen." He requests that the reenlistment code be changed to reflect the error made in the diagnosis and his improper discharge.

i. The Board is aware that regulations allow for discharge for the best interest of the service or Secretarial Authority when discharge is appropriate but no other reason for discharge fits the circumstances of a case.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. The Board weighed the multiple psychiatric evaluations made in the case, and concludes that the diagnosed personality disorder may not be adequately documented. Therefore, the Board agrees with the recommendation of the advisory opinion that the reason for discharge be changed. Although the discharge by reason of the diagnosed personality disorder may have been inappropriate, the Board believes that his documented difficulties in adjusting to his duties aboard ship, his poor performance of duty, and his undisputed adjustment disorder indicate that he would inevitably have been discharged from the Navy. Accordingly, the Board concludes that the reason for discharge should be changed to best interest of the service or

secretarial authority.

Concerning the reenlistment code, the Board notes his severe adjustment problems, poor performance of duty, and the threats he made, and concludes that these were sufficient to support the assignment of an RE-4 reenlistment code.

RECOMMENDATION:

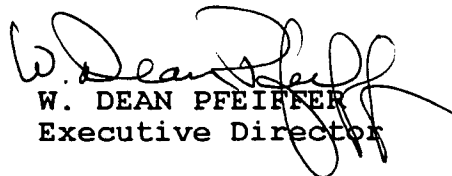
- a. That Petitioner's naval record be corrected to show that on 29 December 1994 he was honorably discharged by reason of Secretarial Authority vice the reason for discharge now of record.
 - b. That his request for a change in the reenlistment code be denied.
 - c. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.
 - d. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder



ALAN E. GOLDSMITH
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



W. DEAN PFEIFFER
Executive Director